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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,731	03/23/2001	George Harry Hoffman	062834-0179	8181

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FOLEY AND LARDNER LLP
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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3687

MAIL DATE	DELIVERY MODE
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04/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/815,731	Applicant(s) HOFFMAN ET AL.	
	Examiner Elaine Gort	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/4/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, 8-11 and 13-15 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US Patent 6,901,381) in view of Hafner et al. (US Patent 5,893,076) and Myrick ("The Silent Thief").

Brown et al. discloses the claimed method/system/computer product for providing a supplier or distributor interface, comprising:

receiving data from a store, the data relating to an amount of goods that are manually produced based on a recipe and sold by the stores (for example column 11 lines 15 to column 12 lines 21 discuss a computer system that tracks items or products sold, such as a hamburger meal that is produced manually based on a recipe stored in a file that contains the ingredients to the hamburger meal, for example including the hamburger patty.);

aggregating by one or more computers programmed to do so, the data based on one or more supplier and/or distributor parameters (the number of hamburger patties used based on the number of hamburger meals sold are accounted for);

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receiving a request relating to production of the goods (POS system operates as a cash register and recorder of all transactions thus receives a request for the sale of, for example, a hamburger meal, abstract. The sale relates to production of the goods as the good must be produced to be sold.);

extracting in response to the request the recipe from a database relevant to the production of the goods and that uses at least one material in the production of the goods (a file contains a recipe for items sold that includes ingredients within the good sold such as a hamburger patty in a hamburger meal, column 11, lines 15+) and an the amount of the material sold to the store (system keeps track of ingredient inventory from the time of receipt from a "particular commissary", column 11, line 61+, which includes the amount of patties sold by the commissary to the store. For example 10 hamburger patties.);

calculating by one or more computers programmed to do so, based on the recipe an amount of the at least one material that should have been used for the amount of the goods sold by the at least one store (system calculates how many patties should have been used for the hamburger meals sold); and

transmitting inventory information for use by the store using the material to make the goods (column 12 lines 1+ discuss ability to view the current inventory by the available ingredient for use by the user).

but is silent regarding: where the data is received from a plurality of stores of a supply chain and where the system utilizes a network/Internet and where a variance

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between an actual amount of a material used and the amount of the material that should have been used is calculated.

Hafner et al. teaches that it is known in the art of supply chain systems to receive data from a plurality of stores of a supply chain and to use a networked/Internet displaying computer system (column 3, line 19+) for communicating, tracking sales and ordering products for multiple locations (column 2 line 21).

Myrick teaches, for example in the first two paragraphs, that it is old and well known in the art of inventory reconciliation to identify variances between actual amounts of material used (such as detected by daily inventory levels) and the amounts of the material that should have been used (based on sales) to identify and prevent product losses that can occur from over dispensing, delivery accuracy, pilferage, product storage loss, miscalibrations, etc...

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method/system/computer of Brown et al. with the plurality of stores and networked Internet system as taught by Hafner et al., in order to communicate, track sales and place orders for multiple locations; and further to provide the method/system/computer of Brown et al. with the calculation of a loss/variance as taught by Myrick in order to identify and prevent product loss that can occur from over dispensing, delivery accuracy, pilferage, miscalibrations, etc...

Response to Arguments

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3. Applicant's arguments with respect to claims 1, 3-6, 8-11 and 13-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is 571/272-6781. The examiner can normally be reached on Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571/272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/
Primary Examiner, Art Unit 3687

Elaine Gort
Primary Examiner
Art Unit 3687

April 25, 2010

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